

\*\*\*\*

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**I.T.R No.190 of 1999**

**Date of decision: 4.12.2006**

**Commissioner of Income Tax, Chandigarh**

**...Appellant**

**Versus**

**M/S Punjab State Coop.Supply & Mktg. Fed. Ltd.,Chandigarh**

**...Respondent**

**CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.S.K.Garg Narwana, Advocate for the Revenue.

\*\*\*\*

**JUDGMENT**

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh arising out of its order dated 23.9.1998 passed in I.T.A.No.666/96, in respect of the assessment year 1993-94.

“Whether on the facts and in the circumstances of the case, the ITAT was right in law in directing AO to allow guest house expenses of Rs.60,000/- on account of rent when such deduction is not allowable specifically w.r.t.Section 37(4) of the I.T.Act?”

The question has been gone into by this court in **The Commissioner of Income-Tax, Patiala Vs. M/S Punjab Tractors, Mohali**, ITR No.392 of 1995 decided on 18.9.2006 and following the judgment of the Hon'ble Supreme Court in **Britannia Industries Limited Vs. Commissioner of Income Tax and another** (2005) 278 ITR 546, the question has been answered in favour of the revenue and against the assessee. Relevant observations of the Hon'ble Supreme Court are as under:-

“.....In our view, the intention of the Legislature appears to be

**\*\*\*\***

clear and unambiguous and was intended to exclude the expenses towards rents, repairs and also maintenance of premises/accommodation used for the purposes of a guest house of the nature indicated in sub-section (4) of section 37. When the language of a statute is clear and unambiguous, the courts are to interpret the same in its literal sense and not to give it a meaning which would cause violence to the provisions of the statute. If the Legislature had intended the deduction would be allowable in respect of all types of buildings/accommodations used for the purposes of business or profession, then it would not have felt the need to amend the provisions of Section 37 so as to make a definite distinction with regard to buildings used as guest houses as defined in sub section (5) of section 37 and the provisions of sections 31 and 32 would have been sufficient for the said purpose. The decision cited by Dr.Pal contemplate situations where specified provision has been made in sections 30 to 36 of the Act and it was held that what had been specifically provided therein could not be excluded under section 37. The clarification introduced by way of sub-section (5) to section 37 was also not considered in the said case.”

In view of the above, question referred is answered in favour of the revenue and against the assessee.

The reference is disposed of.

**(Adarsh Kumar Goel)**  
**Judge**

**December 04 ,2006**  
**Pka**

**(Rajesh Bindal)**  
**Judge**